

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

KATARZYNA FOULGER, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	Case No. 4:22-CV-00878
v.)	
)	
AVERTEST, LLC, dba Averhealth)	
)	
Defendant.)	

**DECLARATION OF RICHARD S. CORNFELD IN SUPPORT OF PLAINTIFFS’
MOTION TO COMPEL PRODUCTION OF MISCELLANEOUS DOCUMENTS**

I, Richard S. Cornfeld, hereby declare as follows:

1. I am an attorney, a member of the Bar of this Court, and counsel for Plaintiffs in the above-captioned case. I make this Declaration in support of Plaintiffs’ Motion to Compel Production of Miscellaneous Documents, filed herewith.

2. Attached hereto are Ex. 1, a copy of Averhealth’s Response to Plaintiffs’ Second Request for Production of Documents and Ex. 2, a copy of Averhealth’s Response to Plaintiffs’ Third Request for Production of Documents. The requests at issue with this motion are Requests Nos. 1, 13, 14, 35, 36, and 60 of the Second Request and Requests Nos. 2 and 4 of the Third Request. Ex. 1 and Ex. 2 include the requests at issue and Averhealth’s responses.

3. I have, in good faith, conferred personally with Averhealth’s counsel Scott Kozak in an attempt to resolve or narrow by agreement the issues raised by this motion. I did so in a telephone meet-and-confer conference on July 10, 2023, at 2:30 p.m. following two emails that I sent to Mr. Kozak, one on June 23, 2023, the other on July 1, 2023, setting forth Plaintiffs’ positions. Those emails are attached hereto as Ex. 3 (unrelated portions redacted). That conference did not result in a resolution of the parties’ disputes regarding the requests at issue. Later that afternoon, I emailed Mr.

Kozak a summary of our discussion, which is contained in Ex. 3, as my comments following the original discussion regarding the requests at issue. For the Court's convenience, I have redacted everything from that exhibit other than the discussions of the requests at issue.

4. Averhealth's counsel has not responded to my confirmation of our meet-and-confer in Ex. 3.

5. The nature of the parties' disagreements regarding the requests at issue is set forth in Ex. 3.

6. Attached as Ex. 4 is a document under the caption of this case titled, "Defendant's Initial Disclosures," which was served on Plaintiffs by Defendant Avertest, LLC, on March 17, 2023.

Averhealth did not serve any documents with its Initial Disclosures.

7. Plaintiffs produced to Averhealth 4,905 pages of documents with their Initial Disclosure.

8. Averhealth made its initial document production to Plaintiffs on June 16, 2023. It has produced no additional documents since then. It has not produced any email communications.

9. Attached as Ex. 5 are Defendant's First Set of Interrogatories Directed to Plaintiff Alexandra Hodor. Interrogatory No. 9 asks about Ms. Hodor's communications with Alice Hines of Vice News.

10. Attached as Ex. 6 is an email dated November 16, 2022, by Amanda Doane of the Michigan Department of Health and Human Services ("MDHHS"). This document was produced to me by MDHHS in response to my Freedom of Information Act request for documents related to Averhealth.

11. Attached as Ex. 7 is an email by Jennifer Warner, dated May 8, 2023, to two senior MDHHS officials with an attachment. This document was produced to me by MDHHS in response to my request for documents related to Averhealth. The subject line of the email reads, "Request for Counsel." The substance of the email is redacted. According to the attached Redaction Log, the reason for the redaction was attorney-client privilege. The attachment to the email is an unredacted

Memorandum under the letterhead of the Office of the Governor with a Re line that reads, “Criminal defense services for state employees.”

12. Attached as Ex. 8 is an email by David Knezek of MDHHS dated November 16, 2022. This document was produced to me by MDHHS in response to my Freedom of Information Act request for documents related to Averhealth.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 22nd day of August 2023.



Richard S. Cornfeld